

In re) Fair Hearing No. 10,702
)
Appeal of)

The petitioner appeals the decision by the Department of Social Welfare denying his application for Medicaid. The issue is whether the petitioner is disabled within the meaning of the pertinent regulations.

1. The petitioner is a twenty-two-year-old man with a 12th grade education. He does not have a high school diploma but is working on his G.E.D.

2. The petitioner's work history consists of several seasons as a farm hand and about seven months as a bartender. His bartending job was his last and ended when the establishment he worked for closed in October of 1990. The petitioner has not worked since that time and is not looking for work now.

3. The petitioner has experienced chest and throat pains since late 1989. He was first treated for the pain in a hospital emergency room in August of 1990 where it was felt he might be experiencing an esophageal spasm. After several trips to the E.R. in November, the petitioner began seeing a physician for his problem who gave him a series of tests and

determined that he has a cardiac arrhythmia. He treated the problem with Procardia which he described as having excellent results.

4. In April of 1991, the petitioner's physician reported to the welfare department that he had chest pain and possible liver or thyroid abnormalities which he was investigating. He had "no opinion at this time in regards to level of activity-employment, etc". In July of 1991, he reported basically the same information to the Department and opined that the petitioner's ability to work was limited. In October of 1991 he reported that the petitioner's chest pain and hemoptysis (spitting up blood) were associated with physical exertion or sustained effort. He limited the petitioner to no lifting greater than fifteen pounds and no sustained exertion.

5. In May of 1991, the petitioner was examined by a consulting psychiatrist at the request of D.D.S. She found no psychiatric problem but remarked that the petitioner had stopped getting regular treatments and needs further medical evaluation of his problem. She noted at that time that the petitioner was complaining of chest pain twice weekly for about an hour each time.

6. The petitioner has not seen nor been treated by his physician for some months now. He stopped taking the Procardia due to headaches and an upset stomach. He currently experiences pains from his throat to his chest on

an intermittent basis. At times it occurs every day and at others he goes for weeks with no problem. When he has a pain attack he feels uncomfortable for anywhere from fifteen minutes to two hours. When the attacks occur, he lies down and takes aspirin.

7. The petitioner has recently married and lives with his wife's parents. He spends his days watching TV and playing video games. He does light housework such as vacuuming or making the beds but does no heavy lifting. He takes walks but cannot climb hills or chest pains will come on.

8. Based on all the above credible evidence it is found that due to his cardiac condition the petitioner is capable of lifting up to fifteen pounds on a regular basis and is able to walk or stand at least occasionally. Although the petitioner may have other problems (such as liver or thyroid dysfunction) which have not been properly diagnosed and are not being treated, there is no evidence that these potential medical conditions or his current diagnosed condition cause any further functional limitations beyond those set out earlier in this paragraph.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

Disability is the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, or combination of impairments, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than twelve (12) months. To meet this definition, the applicant must have a severe impairment, which makes him/her unable to do his/her previous work or any other substantial gainful activity which exists in the national economy. To determine whether the client is able to do any other work, the client's residual functional capacity, age, education, and work experience is considered.

The petitioner's physical limitations at the very least meet the definition in the Social Security regulations for "sedentary work":

Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

20 C.F.R. § 416.967(a)

A person capable of sedentary work, who is a "younger person" (under age fifty as defined at 20 C.F.R. § 416.963(b)), and who has only a "limited" education (through 11th grade as defined at 20 C.F.R. § 416.964(b)(3)) is administratively determined to be able to work under Social Security's Medical Vocational Guidelines. 20 C.F.R. § 404, Appendix 2, Rule 201.18. The petitioner's situation, even considered in its very worst light, at least fits the above definitions. As such, the petitioner must be found capable of substantial gainful activity and, therefore, not

disabled. 20 C.F.R. § 416.969.

#